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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Bill Jestreby and Ronald Cowles,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-173

First Selectman, Town of Lebanon; Police Department, Town of Lebanon; Town of Lebanon; Resident State Trooper, Town of Lebanon, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection,
Respondent(s)

September 16, 2013

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, October 9, 2013**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE September 27, 2013**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE September 27, 2013**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fourteen (14) copies** be filed **ON OR BEFORE September 27, 2013**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of Information Commission

W. Paradis

Acting Clerk of the Commission

#FIC 2013-173

Notice to: Bill Jestreby; Ronald Cowles; Edward B. O'Connell, Esq.; Terrence M. O'Neill, AAG, Janet K. Ainsworth, Esq.; Resident State Trooper, Town of Lebanon, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

9/16/13/FIC# 2013-173/Trans/wrbp/LFS//CAL

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Bill Jestreby and Ronald Cowles,

Complainants

against

Docket #FIC 2013-173

First Selectman, Town of Lebanon; Police
Department, Town of Lebanon; Town of
Lebanon; Resident State Trooper, Town of
Lebanon, State of Connecticut,
Department of Emergency Services and
Public Protection; and State of
Connecticut, Department of Emergency
Services and Public Protection,

Respondents

September 12, 2013

The above-captioned matter was heard as a contested case on August 15, 2013, at which time the complainants and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that on February 27, 2013, the complainant Bill Jestreby sent an e-mail to the Resident State Trooper ("RST"), inquiring about where to get data about police incidents in the Town of Lebanon in any given month.
3. It is found that on March 10, 2013, the RST informed Mr. Jestreby that he should contact the state [police] records division or the selectwoman for crime statistics.
4. It is found that on March 10, March 13, and March 18, 2013, Mr. Jestreby sent an e-mail to the RST, with a copy to the First Selectwoman, in which he requested access to records with information on the date and address, type of crime of each police incident.
5. It is found that the First Selectwoman subsequently replied to Mr. Jestreby, directing him to the Legal Affairs Office of the Department of Emergency Services and Public Protection, in Middletown.

6. It is found that the First Selectwoman also informed Mr. Jestreby that he could go to Troop K in Colchester to view police logs and crime statistics.

7. It is found that the complainants went to Troop K, as directed by the First Selectwoman, only to be told that the records of police incidents that they sought must be requested at DESPP headquarters in Middletown at a charge of \$16 per incident.

8. By letter filed March 22, 2013, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide them with copies of records they requested.

9. Section 1-200(5), G.S., provides:

Public records or files means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, ... whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

10. Section 1-210(a), G.S., provides, in relevant part:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours...

11. It is concluded that the records requested by the complainant are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

12. It is found that the Town of Lebanon has neither a police commission nor an organized police force. It is found that law enforcement is provided by DESPP by appointment of the RST and four constables appointed by the Town who serve as peace officers under the direction and supervision of the RST.

13. It is found that neither the Town of Lebanon nor the First Selectman maintain the records sought by the complainants.

14. It is also found that the RST maintains no incident report records at his office in Lebanon, and the RST does not handle any requests for copies of records.

15. It is found that all the records created by the RST concerning criminal incidents are maintained by DESPP at both the originating troop (i.e., Troop K) and the Records Division of DESPP at the department's headquarters in Middletown.

16. It is found, however, that only minor traffic accident reports are available upon request at the troop level, and DESPP's policy is for the Legal Affairs Office in Middletown to handle requests for access to all other incident reports. See Department of Public Safety v. FOI Commission, 29 Conn. App 821, 825 (1993) (Records of minor automobile accidents must be available at the troop level because, unlike other incident reports, "any state trooper can recognize and copy an accident report without danger of disclosing sensitive or confidential information.")

17. It is found that the respondents informed the complainants when they visited Troop K that they needed to make their request for records at DESPP headquarters in Middletown.

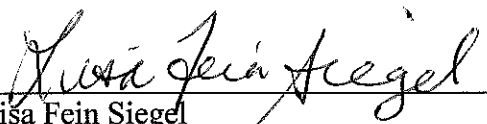
18. It is found that the complainants did not request any records from either the Records Division or the Legal Affairs Office of DESPP.

19. It is found that the respondents did not deny a request for access to public records.

20. Accordingly, it is concluded that none of the respondents violated the FOI Act as alleged by the complainants.

The following order by the commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is dismissed.



Lisa Fein Siegel
as Hearing Officer